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(3)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P. No. 3626 / 2005

PETITIONER : Jai Vijay Prathmik Sahakari Upbhokta Bhandar, a Registered Society under the provisions of Chhattisgarh Co-operative Societies Act, 1960 having its Registration No.17/1961 through its President, Radheshyam Pandey S/o Shri Geet Pandey, Aged about 62 years; R/o Paras Nagar, Having Fair Price Shop at Ward No.21/1, Raipur, District- Raipur (C.G.)

P.R. No. 3729/05 Presented by Shri PR Petitioner dated 1/2/05

Versus

RESPONDENTS :

1) State of Chhattisgarh Through Secretary, Food Department, D.K.S. Bhawan, Raipur, District: Raipur (C.G.)

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2) The Collector, Food Branch Raipur, District: Raipur (C.G.)

3) The Food Controller, Raipur District-Raipur (CG).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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मामला क्रमांक W.P. 3626/05 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

8-8-2005

Shri P. Diwakar, Senior Advocate with Shri K. S. Pawar, Advocate for the petitioners.

Shri Sandeep Dubey, Govt. Advocate for the State/respondents.

Since the Writ Petitions No.3608/2005, 3614/2005, 3615/2005, 3616/2005, 3618/2005, 3619/2005, 3621/2005, 3638/2005, 3637/2005, 3636/2005, 3635/2005, 3627/2005, 3626/2005, 3625/2005, 3623/2005 and 3622/2005 relate to suspension of fair price shops, which were allotted to the petitioners only one month back, vide order dated 21-7-2005 on account of violation of some clauses of Public Distribution System (Control) Order, 2004 and also violation of conditions of the agreement entered into between the petitioners and the Licencing Authority, therefore, they are being disposed of by this common order.

I have heard Shri P. Diwakar, learned Senior Counsel for the petitioners.

Learned Senior Counsel for the petitioners submitted that that inspection of 17 sh in one day it is said that inspection of 17 shops was carried out.

HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक W.P. 3626/05 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

During inspection, the Inspecting Authority noticed that certain registers were not found in the shops as well as fair price display notice board was not displayed and other clauses of Order, 2004 were not being complied with, and also violation of the agreement was noticed. Normally for such minor violation always fine is imposed whereas, in the present cases, drastic action has been taken. It was not physically possible to inspect so many shops in one day and it was done within one month from opening of the shops, therefore, action of respondents is arbitrary and too harsh to the petitioners. Therefore, order be stayed.

Clause-18 of the said order provides for an appeal. Even though the word 'suspension' has been used. But, from perusal of the said order, the language shows that it is almost cancellation, as such in my considered opinion, the order in question is appealable.

Therefore, the petitioners should file an appeal before the State Government, as it is evident from impugned order Annexure-P/3 that the Food Controller has passed the said order as per the orders of the Collector, within a period of 7

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक W.P. 3626/05 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

days from today and the State Government should decide the appeal within a period of 1 month from the date of receipt of the appeal in accordance with law after giving opportunity of hearing to the petitioners.

In the meantime, till the appeal is decided, shops in question should not be allotted to any other party.

With the direction aforesaid, the above writ petitions stand disposed of.

In view of this order, all the pending applications also stand disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

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(पीछे देखिये)

10.6.05